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HAROLD E. WILLEY, Clerk

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1954

No. 1

OLIVER BROWN, ET AL., *APPELLANTS*

VS.

BOARD OF EDUCATION OF TOPEKA, SHAWNEE COUNTY, KANSAS ET AL., *APPELLEES*

Appeal from the United States District Court for the District of Kansas.

SUPPLEMENTAL BRIEF FOR THE BOARD OF EDUCATION, TOPEKA, KANSAS, ON QUESTIONS 4 AND 5 PROPOUNDED BY THE COURT

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This supplemental brief is filed in response to the order of this Court directing and requesting further briefs and argument on questions 4 and 5 heretofore propounded by the Court.

In its brief, heretofore filed herein in December, 1953, The Board of Education of Topeka urged that in the event segregation in its elementary schools were held to be unconstitutional, this case should simply be remanded to the lower court with instructions to reverse its judgment and to enter a decree requiring that segregation be terminated "as rapidly as is practicable" by the defendant Board of Education. It was suggested that by such a decree the lower court could retain jurisdiction for enforcement of the decree, and that if a need for

a more specific decree should arise in the future, the lower court would have power to amplify its decree under the general power of an equity court to enforce its decree.

As was pointed out in its brief filed in December, 1953, The Board of Education of Topeka in September, 1953, adopted a resolution to terminate segregation in its elementary schools "as rapidly as is practicable"; and on September 8, 1953, terminated segregation at two of its elementary schools, to wit: Southwest and Randolph Schools.

Since that time, the Board of Education of Topeka has already taken its second far-reaching step or stride toward termination of segregation by adopting the recommendations of its superintendent of schools as set out in the following report which was made on January 20, 1954, and was approved and adopted by the Board of Education on the same date:

SECOND STEP IN TERMINATION OF SEGREGATION IN TOPEKA ELEMENTARY SCHOOLS

I. In implementation of the Board's policy to terminate segregation in elementary schools as soon as practicable, I propose that the second step be taken at the opening of school in September, 1954. The step should be acted upon by the Board at this time in order to enable everybody concerned to make necessary plans for next year.

II. In the second step, I propose that segregation be terminated in the following school districts and that transportation not be provided for Negro children who are affected, but that such child be given the privilege of attending the nearest Negro School if his parents want him to do so. (All pupil accounting is based on the number belonging on October 16, 1953.)

	Negro Children to Integrated Schools	Negro Children to Come from following Schools			
		McKINLEY	BUCHANAN	MONROE	WASHINGTON
1. Central Park	21		16	5	
2. Clay	13		12	1	
3. Crestview	0				
4. Gage	1				
5. Grant (Limited)*	3	3	1		
6. Oakland	0				
7. Polk (Limited)**	3			3	
8. Potwin	0				
9. Quincy	34	34			
10. Quinton Heights	10		5	5	
11. State Street	21			9	12
12. Sumner	7	1	5	1	
	113	38	39	24	12
Randolph	2				
Southwest	8				
	123				

*The limitation suggested at Grant is that three Negro children isolated in the extreme northern part of Grant School district be permitted to attend Grant, while the remainder of the Negro children continue at McKinley.

**The limitation suggested at Polk School is as foliows: Several Negro children in this district live very close to Buchanan School. They should continue at this school. There would not be room for them at Polk and there is plenty of room at Buchanan. However, there are three Negro children now attending Monroe School but residing in the Polk district. I suggest that they be allowed to attend Polk School.

1. It would reduce the enrollments of Negro Schools as indicated.

	From	To
McKinley	127	89
Buchanan	160	121
Monroe	245	221
Washington	292	280
	824	711

2. It would place 123 Negro children in integrated schools.
3. It would leave, in addition to the four schools for Negro children, 12 schools integrated, 2 schools (Grant and Polk) on a basis of partial integration, and 5 schools continuing on a segregated basis (Lafayette, Lincoln, Lowman Hill, Parkdale and Van Buren.)

Thus, by announcing the changes in the spring of 1954, all parties affected had ample opportunity to adjust themselves to the changes before they became effective the following September.

Segregation has been completely terminated in 12 elementary school districts, and partially terminated in two others; and, as of September, 1954, there will remain only four negro schools and five white schools in which segregation is being continued.

The Board of Education has requested the superintendent, and he plans, to make recommendations for the third step toward termination of segregation early in 1955 to become effective in September, 1955. In the meantime, of course, he will have had an opportunity to observe the results and the operation of the second step which became effective in September, 1954. Thus before taking the third step, the board of education will have the benefit of its experiences with the first and second steps.

Board of Education has been carrying out its policy of termination of segregation "as rapidly as is practicable" with full public cooperation and acceptance by both white and negro pupils, teachers and parents.

The administrative problems, which were discussed in the brief filed in December, 1953, are the chief problems with which The Board of Education is confronted; but with practical experience, they are being satisfactorily solved. Their solution, however, cannot be effected "forthwith," but require time for a gradual adjustment.

It is respectfully submitted that The Board of Education of Topeka is in good faith carrying out its adopted policy to terminate segregation "as rapidly as is practicable," and that there is no need at this time for the appointment of a special master or for the Court to undertake to formulate specific decrees directing the particular steps to be taken to terminate segregation in the schools of Topeka.

Respectfully submitted,

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